

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed March 31, 2005. At the time of the Office Action, Claims 1-4, 7-10, 13-16, 19-22, and 25 were pending in the Application. Applicant amends Claims 1-4, 7-10, 13-16, 19-22, and 25 without prejudice or disclaimer. The amendments to these claims are not the result of any prior art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's allowance of Claim 25. Applicant reserves the right to espouse sentiments relating to the basis for such an allowance at a future time, should Applicants deem it necessary to do so.

Section 103 Rejections

The Examiner rejects Claims 1-4, 7-10, 13-16, and 19-22 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,400,954 issued to Khan (hereinafter "*Khan*") and further in view of U.S. Patent No. 6,408,005 issued to Fan et al. (hereinafter "*Fan*"), and U.S. Patent No. 6,744,767 issued to Chiu et al. (hereinafter "*Chiu*"). These rejections are respectfully traversed for the following reasons.

Taking a cue from the Examiner, Applicant has made a series of amendments to the pending subject matter such that each of the claims now recite subject matter indicated as allowable by the Examiner. The Examiner's cooperation and guidance in this endeavor is appreciated.

Turning to the merits of the rejection (juxtaposed with the claims in their amended format), Applicant respectfully posits that each of the elements of non-obviousness, which are required to support a proper §103 analysis, have not been satisfied. According to MPEP §2143, to establish a prima facie case of obviousness, three criteria must be met. First, there must be some suggestion or motivation to combine the references. Second, there must be a

reasonable expectation of success. Third, the prior art combination of references must teach or suggest all the claim limitations. (See generally MPEP §2143.) As an initial matter, the Examiner has failed to meet his burden with respect to the third criteria of non-obviousness, as none of the references cited by the Examiner disclose all of the limitations of the pending claims.

For example, none of the references provide: A method for sharing over-allocated bandwidth between service classes in a wireless network that includes "...the second class comprises non-bursty traffic flows, and wherein the non-bursty traffic flows comprises voice traffic, wherein the third service class comprises a lower priority than the first service class and the second service class comprises a lower priority than the first service class, and wherein unused voice bandwidth is used to accommodate the bandwidth requirement before using the unused bandwidth allocated to the third service," as is recited in amended Independent Claim 1. This is because none of the references of record include the newly included limitations or the priority protocol outlined in Independent Claim 1: particularly so in the context of the recited architecture. For at least these reasons, Independent Claim 1 is clearly allowable over the *Chui-Khan-Fan* combination.

In addition, Independent Claims 7, 13, 19, and 25 include a limitation that is similar, but not identical, to that of Independent Claim 1. Accordingly, these Independent Claims are also allowable over the proffered combination. Additionally, the dependent claims corresponding to these Independent Claims are also allowable for analogous reasons. Thus, all of the pending claims have been shown to be allowable, as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these pending claims.

ATTORNEY DOCKET NO.
062891.0565

PATENT APPLICATION
09/898,558

10

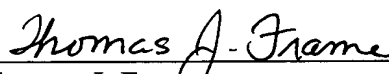
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. However, if this is not the case, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas Frame at 214.953.6675.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant



Thomas J. Frame
Reg. No. 47,232

Date: May 2nd, 2005

Customer No. **05073**